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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,374	01/23/2004	Sergey N. Razumov	59036-042	4464
7590 09/01/2006 McDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER ALLEN, WILLIAM J	
			ART UNIT 3625	PAPER NUMBER

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/762,374	Applicant(s) RAZUMOV, SERGEY N.	
	Examiner William J. Allen	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/3/05; 1/23/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 1 is objected to because of the following informalities: In line 4, claim 1 recites "fulfil" and should read "fulfill". Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1, 4-7, 10-13, 15-16, 18-19, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Barzilay (US 2003093334).**

Regarding claim 1, Barzilay teaches:

input telephone circuitry for receiving incoming telephone calls from customers

(see at least: abstract, 0029-0034), and

order processing circuitry responsive to order information supplied from the input circuitry for conducting an interactive session with a customer to fulfill a request for an item being ordered, without intervention of a human operator (see at least: abstract, 0038-0046, Fig. 1, 3A-3B).

Regarding claims 4-7, 10-13, and 15-16, Barzilay teaches:

(4) *wherein the order processing circuitry is configured to request delivery of the item to a point of sale selected by the customer (see at least: 0003, 0035, 0047).*

(5) *wherein the order processing system is responsive to information identifying the customer for determining a customer's profile indicating preferences of the customer (see at least: abstract, 0031, 0033, 0041, Fig. 3A).*

(6) *wherein the customer's profile contain a customer's voice sample for recognizing voice messages received from the customer (see at least: 0033, 0041, Fig. 3A).*

(7) *wherein the order processing circuitry is configured to process a customer's voice message associated with the request for an item being ordered (see at least: abstract, 0031-0035, 0038-0046).*

(10) *wherein the voice message identifies a requested point of sale (see at least: 0003, 0034-0035, 0047).*

(11) *wherein the voice message identifies the customer (see at least: 0033, 0041).*

(12) *wherein the order processing circuitry is configured to produce a voice message providing the customer with information relating to the request for an item being ordered (see at least: 0016, 0033, 0043).*

(13) *control circuitry configured to interact with the processing circuitry during the session with the customer* (see at least: abstract, 0030-0034, Fig. 1-2). Note: Retail Control Unit, Delivery Control Unit, Order Preparation Unit, etc.

(15) *wherein during the session with the customer, the control circuitry provides the processing circuitry with a customer's profile indicating preferences of the customer* (see at least: 0022, 0031, 0033, 0043).

(16) *wherein during the session with the customer, the control circuitry provides the processing circuitry with information on a point of sale selected by the customer* (see at least: 0033, 0037, 0047).

Regarding claims 18-19 and 22, claims 18-19 and 22 closely parallel claims 1, 4-7, 10-13, and 15-16. Claims 18-19 and 22 are thereby rejected for at least the reasons above regarding claims 1, 4-7, 10-13, and 15-16.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 2-3, 9, 14, 17, and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barzilay in view of Adams et al (US 20210013519, herein referred to as Adams).**

Regarding claims 2-3, 9, 14, 17, and 20-21, Barzilay teaches all of the above as and further teaches updating inventory and providing delivery information to a user with the user able to approve and modify their delivery instructions (see at least: 0016, 0021-0022, 0035, 0046-0047). Barzilay, however, does not expressly teach determining if an item will be available and be available for delivery by a customer specified time interval. Adams teaches a call center for requesting an item such as a medical testing device, with the call center able to accepting requests from members (see at least: 0014-0019, 0040, 0043-0045, 0054). Adams further teaches a patient or physician (the ordering person) specifying an arrival date (i.e. time interval). The system is able to check available inventory (i.e. whether the item is available immediately and available to be provided by the specified arrival date) and place the order on various queues according to the availability of the ordered device (see at least: 0059-0060). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the

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invention of Barzilay to have included determining the availability of items and their availability for delivery during a customer specified time interval as taught by Adams in order to provide a system for secure home ordering wherein an acknowledgement of an order and estimation of delivery are provided to help ensure the orders are shipped to the proper location (see at least: Adams, 0026, 0033, 0049, 0056).

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barzilay in view of Showghi et al. (US 20030050854, herein referred to as Showghi).

Regarding claim 8, Barzilay teaches all of the above as noted and further teaches using voice over IP to place orders (see at least: claim 7 above, 0013, 0018). Barzilay, however, does not explicitly teach *wherein the voice message identifies the requested item*. Showghi teaches the use of mobile wireless devices such as cellular telephones to call in orders (see at least: abstract, Fig. 3B, 0025). Showghi also teaches where *the voice message identifies the requested item* (see at least: 0052, 0059, 0077, claims 1, and 16-18). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Barzilay to have included *the voice message identifies the requested item* as taught by Showghi in order to provide an ordering system wherein orders could be transmitted orally via microphones in the patron's wireless device without the need to look down to find and press a particular button to respond (see at least: Showghi, 0059).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 20020095357 to Hunter et al. discloses a system and method permitting customers to order selected products from a vast array of products offered by multiple participating merchants and related security applications
- US 20040143505 to Kovach discloses a method for tracking and disposition of articles

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William J. Allen
Patent Examiner
August 29, 2006

WJ Allen
Primary Examiner